

REMARKS

The Office Action on April 28, 2009 indicated that the previous response was non-responsive due to the claims allegedly being drawn to two different inventions, one classified in Class 707, subclass 103R and another classified in Class 386, subclass 125. Class 707, subclass 103R is for an object-oriented data structure and its maintenance in memory, while Class 386, subclass 125 is for television signal recorded onto a record medium having a thin circular shape.

Applicant has amended the claims to be responsive. For example, Claim 48 includes the features of Dependent Claims 49 and 50 in the Preliminary Amendment filed on July 18, 2006. Since no restriction requirement has been issued, the claim amendments fall within the scope of the election by presentation. Claims 59, 70, and 71 have also been amended to be directed to a single invention in the alleged Class 386, subclass 125. Claims 72 is newly added, but does not add any new matter. Claim 72 is also directed to a single invention in the alleged Class 386, subclass 125. Applicant respectfully submits that the Claims as amended are directed to a single invention and are thus fully responsive.

The present invention is directed towards a system of interactive mediums and devices which encourages programmers to produce interactive programs for inclusion in the interactive medium and distributors to distribute the interactive medium. (Pg. 6, lns. 8 – 14, Pg. 13, lns. 5 – 20) The present invention accomplishes this by instructing a program to be executed, for example, by a virtual machine such as a JAVATM virtual machine. The execution of the program by a virtual machine such as the JAVATM virtual machine allows one program to be created which can be used on multiple platforms. (Page 43, lns. 12 to 25) Since the programmer only has to create one program, the programmer's developmental costs are reduced. This can lead to more innovation by the programmer.

Furthermore, the present invention utilizes branch commands by referencing a table instead of directly referencing the enhanced mode. Advantageously, this allows a new table to be downloaded whenever alterations are needed to the programming order, such as when certain objectionable scenes should be removed or if the user does not have the appropriate software to view the enhanced material. Thus, instead of reordering the material on the recorded medium or performing a recall of the recorded medium, the new table can be downloaded and referenced by the playback device. Increased operational assurances will provide creative assurances to the distributors as they will have greater assurances that the movies they create will be viewed in the proper environment. (Pg. 9, ln. 9 – Pg. 11, ln. 7, Pg. 13, lns. 5 – 20) The use of the table is also advantageous for security and copyright reasons as listed on Page 11, line 16 to Page 13, line 4. Increased security and copyright assurances will also provide monetary incentives for distributors to create movies as they will have greater assurances that they will be able to recoup their costs or prevent their movies. (Pg.11, ln. 8 – Pg. 12, ln. 4)

The Office Action on March 23, 2009, rejected Claims 48 – 71 under 35 U.S.C. § 102(e) as being anticipated by *Cho et al.* (U.S. Patent Pub. No. 2002/0176693) in reference of *Saeki et al.* (U.S. 6,067,400).

It appears that the Office Action is using both the *Cho* and the *Saeki* reference in an obviousness-type rejection under 35 U.S.C. §103. If, however, Applicant is wrong in its assumption and the Office Action is instead using *Cho* and the *Saeki* individually in an anticipatory manner under 35 U.S.C. § 102, Applicant requests the opportunity to address such a rejection.

Cho is directed towards a recording medium in which the moving picture data is recorded together with the script files which have additional information relating to the moving picture data. (¶ 0002)

Saeki is a patent previously granted to the Applicant. *Saeki* is directed towards a multimedia optical disc and reproduction apparatus which allows for highly-responsive, highly-interactive, and efficient reproduction of an application using a simplified menu operation by the user. (Col. 3, lns. 62 – 66) It accomplishes this by restricting storage of the menu image to the first sub-area which contains the moving picture data which is played at the same time as the menu image. Furthermore, the control information including button control data for responding to a user's operation is stored in a second sub-area adjacent to the first sub-area. This allows for quick access to the menu operation. (Col. 4, lns. 10 – 24) In addition, *Saeki* also teaches forcedly activating one of the menu buttons after a period of time to ensure that the movie is not interrupted while waiting for the user to select the menu button. (Col. 4, lns. 34 – 52)

Cho and *Saeki* do not teach or suggest “one of the plurality of programs includes a command for branching, which instructs a playback device to perform branching based on a title number.” *Cho* utilizes a link data file table shown in FIG. 6 to match a program chain information (“PGCI”) to a link data file. (¶ 0039) Thus, a link data file may have a filename indicative of an associated PGCI to distinguish what link data file is associated with what PGCI. For example, the first link data file associated with PGCI “PGCI #1” is named “PGC_1.lk.” Likewise, the second link data file associated with PGCI “PGCI #2” is named “PGC_2.lk.” As can be seen, PGC_1 and PGC_2 are character names and not title numbers since the titles are not in a purely numerical format. (¶ 0039)

Cho and *Saeki* also fail to disclose

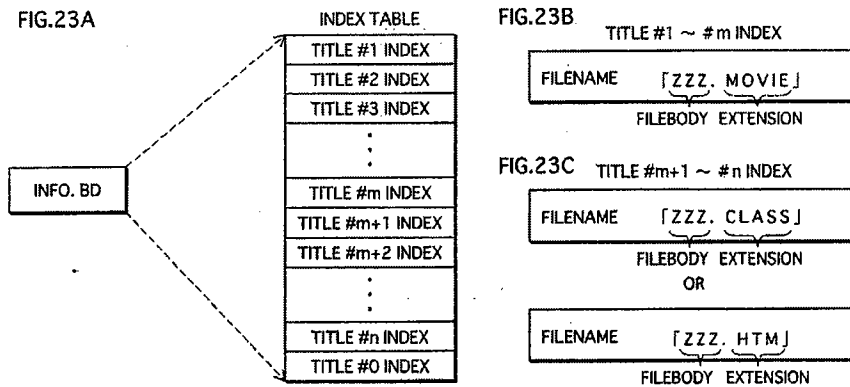
[T]he table includes (1) program identification information of each of the plurality of programs, (2) mode information corresponding to the program identification information showing whether each of the plurality of programs belongs to a movie-mode or an enhanced-mode, and (3) title numbers corresponding to the program identification information and the mode information.

Cho does not disclose the title numbers corresponding to the program identification information and the mode information. In *Cho*, the table shown in FIG. 6 merely corresponds program chain information to the link. The PGC_1 in PGC_1.lnk, however, is not the title of the program to be executed for dynamic control. PGC_1 is the program chain information. While the program chain information may contain a list of programs, the program chain information is not the title of the program. Likewise, the Video Title Set Video Object Unit Address Map (VTS_VOBU_ADMAP) also does not show corresponding between the title of the program and the mode information as it is only the start address of a video object unit in a Video Title Set Object Unit. (¶ 0034, FIG. 3)

Saeki also does not remedy the deficiencies of *Cho*. *Saeki* discloses a title search pointer table which is an index of the PGCs stored in the PGC information table. The title search pointer table stores pointers for the storage position for the PGC which should be executed first for each title, for example, a pointer which shows the storage position of the PGC information that shows the leading PGC for the interactive movie. (Col. 16, lns. 36 – 41). While the location of the first PGC to be executed may be stored, the title search pointer table does not indicate which mode the PGC should be executed in. Furthermore, any command for branching in *Saeki* is done through button commands set for every button in the button information. The button information is part of management pack incorporated in a video object equivalent to video data. Thus, *Saeki*

does not use title numbers corresponding to the program identification information and the mode information. (Col. 15, ln. 53 - Col. 16, ln. 18)

In contrast, in the present invention, INFO.BD-ROM includes an Index Table as shown in FIGS. 23A, FIG. 23B, and FIG. 23C reproduced below:



As seen in FIG 23B, the Title #1 to Title #m INDEX each has a filename which includes a filebody and an extension. (Pg. 60, lns. 1 – 4) The filename is indicated by a title number ZZZ which is a numerical number such as 001 and an extension such as MOVIE. (Pg. 60, lns. 1 – 2) The program identification is the title number ZZZ, which identifies the dynamic scenario to be executed. The extension is the mode information, which indicates the type of dynamic scenario to be executed. In FIG. 23B, the extension is MOVIE which indicates that the dynamic scenario to be executed should be executed in a MOVIE mode. (Pg. 72, lns. 16 – 18) However, in FIG. 23C, the extension CLASS indicates that the dynamic scenario to be executed should be executed using a virtual machine, for example, using a JAVA virtual machine. (Pg. 72, lns. 18 – 20).

Saeki does not disclose the formatting of the branching commands, as shown in FIGS. 16 and 17. *Saeki* merely indicates what the branching commands are, but does not indicate their formatting.

In contrast, in the present invention, the branching command instructs the playback device to perform branching based on a numerical title as shown in FIG. 23C. In FIG. 23C, the naming convention for a branch destination is ZZZ.CLASS, where ZZZ is a numerical title. (Pg. 60, ln. 11 – Pg. 61, ln. 4) The ZZZ is a 3-digit identification number appended to the individual dynamic scenarios which uniquely identifies the dynamic scenarios. (Pg. 49, ln. 22 – Pg. 50, ln. 9) In FIG. 24A, ZZZ.CLASS can be, for example, 001.CLASS.

Cho and *Saeki* also do not teach or suggest

[M]ode information corresponding to the program identification information showing whether each of the plurality of programs belongs to a movie-mode or an enhanced-mode . . . [wherein] the enhanced-mode is a mode for causing a virtual machine to execute one of the plurality of programs belonging to the enhanced-mode.

The Office Action on pages 3 and 4 cite to the script-flag in *Cho* as the mode information. The script flag in *Cho* indicates whether there is a stored script file linked with the selected program chain. (§ 0058) However, the script file is written in the conventional Hyper-Text Markup Language (HTML), and does not indicate whether each of the plurality of programs belongs to a movie-mode or an enhanced-mode where the enhanced-mode is a mode for causing a virtual machine to execute one of the plurality of programs. (§ 0031) The script-flag merely indicates the presence of the script file. Thus, *Cho* does not teach that the script file indicates whether a virtual machine should be used to execute one of the plurality of programs.

Saeki also does not remedy the deficiencies of *Cho*. In *Saeki*, the PGC information management table is cited on Page 3 of the Office Action as the program to be executed. The

PGC information management table, however, only indicates the reproduction route of the VOBs. That is, the PGC information management table indicates the order in which the VOBs are produced. (Col. 16, lns. 42 – 50) However, there is no indication that the PGC information discloses whether a virtual machine should execute a program or not. Since the PGC information does not disclose whether a virtual machine should execute a program, *Saeki* also does not disclose the “mode information.”

In contrast, in the present invention, the mode information is shown in FIG. 23A, 23B, and 23C, the mode information is described in the extension. (Pg. 59, ln. 18 – Pg. 60, ln. 10) The mode information is MOVIE when the branch-destination dynamic scenario is the MOVIE mode. (Pg. 72, lns. 16 – 18) The mode information is CLASS when the branch-destination dynamic scenario should be executed by a virtual machine. (Pg. 72, lns. 18 – 20, Pg. 43, lns. 12 - 14) The mode information is HTML when the branch-destination dynamic scenario is the Browser mode, where HTML is different from a virtual machine language. (Pg. 72, lns. 20 – 22) Thus, the extension or mode information reveals whether mode switching is necessary. (Pg. 72, lns. 22 – 23)

Applicant submits that any combination of references that must be modified beyond their functions is suggestive of an unintended use of hindsight that may have been utilized to drive the present rejection. This is particularly true for an Examiner who is attempting to provide a diligent effort that only patentable subject matter occurs. The *KSR* Guidelines do not justify such an approach. There is still a requirement for the Examiner to step back from the zeal of the examination process and to appreciate that a Patent Examiner has to wear both hats of advocating a position relative to the prior art while at the same time objectively rendering in a judge-like manner a decision on the patentability of the present claims.

As set forth in MPEP 2142,

To reach a proper determination under 35 U.S.C. §103, the examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

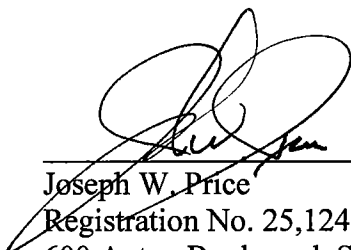
All arguments for patentability with respect to Claim 48 are repeated and incorporated herein for Claims 59, 70, 71, and 72.

It is believed that the present case is in condition for allowance and an early notification of the same is requested.

If the Examiner believes a telephone interview will assist in the prosecution of this matter, the undersigned attorney can be contacted at the listed phone number.

Very truly yours,

SNELL & WILMER L.L.P.



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